

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Deborah Schuster,

Plaintiff,

v.

County of Pima,

Defendant.

No. CV-24-00054-TUC-BGM

REPORT AND RECOMMENDATION

On January 31, 2024, Plaintiff Deborah Schuster filed a civil rights complaint against Pima County alleging that the County violated her religious freedom rights when it terminated her from a Guardian Administrator position for failing to get vaccinated against COVID-19. (Doc. 1.) Outside of agreeing to Magistrate Judge jurisdiction, (*see* Doc. 7), Plaintiff has failed to serve Defendant or prosecute her case.

On May 20, 2024, this Court issued an Order to Show Cause advising Plaintiff that the Federal Rules of Civil Procedure mandate that a court “dismiss the action without prejudice ... [i]f a defendant is not served within 90 days after the complaint is filed,” and that “an action may be dismissed for a failure of a plaintiff to prosecute ... or failure to comply with any order of the court.” (Doc. 8 at 1.) The Court gave Plaintiff up to and including May 27, 2024, to show cause why her case should not be dismissed. (*Id.*) As of the date of this recommendation, Plaintiff has failed to comply with the Court’s Order.

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General Order 21-25 provides that:


When a United States Magistrate Judge to whom a civil action has been assigned pursuant to Local Rule 3.7(a)(1) considers dismissal to be appropriate but lacks the jurisdiction to do so under 28 U.S.C. § 636(c)(1) due to incomplete status of election by the parties to consent or not consent to the full authority of the Magistrate Judge, ... the Magistrate Judge will prepare a Report and Recommendation for the Chief United States District Judge or designee.

The designee for the district court here in Tucson, Arizona, is Senior United States District Judge Raner C. Collins. *Id.* As such, the Magistrate Judge recommends that the District Court, after its independent review, dismiss this case without prejudice for failure to serve Defendant and failure to prosecute.

RECOMMENDATION

For the foregoing reasons, the Magistrate Judge recommends that the District Court issue an order DENYING Plaintiff's Complaint (Doc. 1) and DISMISSING this case without prejudice. Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(2), any party may serve and file written objections within fourteen (14) days of being served with a copy of this Report and Recommendation, and a party may respond to another party's objections within fourteen (14) days after being served with a copy. No replies shall be filed unless leave is granted by the District Court. If objections are filed, the parties should use the following case number: **CV-24-54-TUC-RCC**. Failure to file timely objections to any factual or legal determination of the Magistrate Judge may result in waiver of the right of review.

Dated this 5th day of June, 2024.


 Honorable Bruce G. Macdonald
 United States Magistrate Judge